
HOUSE BILL 1967

State of Washington 60th Legislature 2007 Regular Session

By Representatives Moeller, Skinner, Cody, Williams, Barlow, Rodne, Condotta and Campbell

Read first time 02/02/2007. Referred to Committee on Judiciary.

1 AN ACT Relating to the reporting of physician convictions for
2 driving while under the influence to an approved substance abuse
3 program; amending RCW 46.61.5056 and 18.130.175; and adding a new
4 section to chapter 46.61 RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 46.61 RCW
7 to read as follows:

8 (1) Upon a guilty plea or conviction of a person who is convicted
9 of a violation of RCW 46.61.502 or 46.61.504, the court hearing the
10 matter shall order that notice of the plea or conviction be provided to
11 the department.

12 (2) When the department receives notice that a person has pleaded
13 guilty to or been convicted of a violation of RCW 46.61.502 or
14 46.61.504 under subsection (1) of this section, the department shall
15 transmit that information to the medical quality assurance commission.
16 It is the duty of the medical quality assurance commission to identify
17 if the person holds a medical license issued under chapter 18.71 RCW,
18 and then refer such physician to a substance abuse program approved by
19 the medical quality assurance commission pursuant to RCW 18.130.175.

1 **Sec. 2.** RCW 46.61.5056 and 1995 c 332 s 14 are each amended to
2 read as follows:

3 (1) A person subject to alcohol assessment and treatment under RCW
4 46.61.5055 shall be required by the court to complete a course in an
5 alcohol information school approved by the department of social and
6 health services or to complete more intensive treatment in a program
7 approved by the department of social and health services, as determined
8 by the court. If the person is a physician licensed under chapter
9 18.71 RCW, the court shall refer the physician to a substance abuse
10 program approved by the medical quality assurance commission. The
11 court shall notify the department of licensing whenever it orders a
12 person to complete a course or treatment program under this section.

13 (2) A diagnostic evaluation and treatment recommendation shall be
14 prepared under the direction of the court by an alcoholism agency
15 approved by the department of social and health services or a qualified
16 probation department approved by the department of social and health
17 services. A copy of the report shall be forwarded to the department of
18 licensing. Based on the diagnostic evaluation, the court shall
19 determine whether the person shall be required to complete a course in
20 an alcohol information school approved by the department of social and
21 health services or more intensive treatment in a program approved by
22 the department of social and health services.

23 (3) Standards for approval for alcohol treatment programs shall be
24 prescribed by the department of social and health services. The
25 department of social and health services shall periodically review the
26 costs of alcohol information schools and treatment programs.

27 (4) Any agency that provides treatment ordered under RCW
28 46.61.5055, shall immediately report to the appropriate probation
29 department where applicable, otherwise to the court, and to the
30 department of licensing any noncompliance by a person with the
31 conditions of his or her ordered treatment. The court shall notify the
32 department of licensing and the department of social and health
33 services of any failure by an agency to so report noncompliance. Any
34 agency with knowledge of noncompliance that fails to so report shall be
35 fined two hundred fifty dollars by the department of social and health
36 services. Upon three such failures by an agency within one year, the
37 department of social and health services shall revoke the agency's
38 approval under this section.

1 (5) The department of licensing and the department of social and
2 health services may adopt such rules as are necessary to carry out this
3 section.

4 **Sec. 3.** RCW 18.130.175 and 2006 c 99 s 7 are each amended to read
5 as follows:

6 (1) In lieu of disciplinary action under RCW 18.130.160 and if the
7 disciplining authority determines that the unprofessional conduct may
8 be the result of substance abuse, the disciplining authority may refer
9 the license holder to a voluntary substance abuse monitoring program
10 approved by the disciplining authority.

11 The cost of the treatment shall be the responsibility of the
12 license holder, but the responsibility does not preclude payment by an
13 employer, existing insurance coverage, or other sources. Primary
14 alcoholism or other drug addiction treatment shall be provided by
15 approved treatment programs under RCW 70.96A.020 or by any other
16 provider approved by the entity or the commission. However, nothing
17 shall prohibit the disciplining authority from approving additional
18 services and programs as an adjunct to primary alcoholism or other drug
19 addiction treatment. The disciplining authority may also approve the
20 use of out-of-state programs. Referral of the license holder to the
21 program shall be done only with the consent of the license holder.
22 Referral to the program may also include probationary conditions for a
23 designated period of time. If the license holder does not consent to
24 be referred to the program or does not successfully complete the
25 program, the disciplining authority may take appropriate action under
26 RCW 18.130.160 which includes suspension of the license unless or until
27 the disciplining authority, in consultation with the director of the
28 voluntary substance abuse monitoring program, determines the license
29 holder is able to practice safely. The secretary shall adopt uniform
30 rules for the evaluation by the disciplinary authority of a relapse or
31 program violation on the part of a license holder in the substance
32 abuse monitoring program. The evaluation shall encourage program
33 participation with additional conditions, in lieu of disciplinary
34 action, when the disciplinary authority determines that the license
35 holder is able to continue to practice with reasonable skill and
36 safety.

1 (2) In addition to approving substance abuse monitoring programs
2 that may receive referrals from the disciplining authority, the
3 disciplining authority may establish by rule requirements for
4 participation of license holders who are not being investigated or
5 monitored by the disciplining authority for substance abuse. License
6 holders voluntarily participating in the approved programs without
7 being referred by the disciplining authority shall not be subject to
8 disciplinary action under RCW 18.130.160 for their substance abuse, and
9 shall not have their participation made known to the disciplining
10 authority, if they meet the requirements of this section and the
11 program in which they are participating. Physicians licensed under
12 chapter 18.71 RCW who are referred to an approved substance abuse
13 program pursuant to section 1 of this act or RCW 46.61.5056 shall not
14 be subject to disciplinary action under RCW 18.130.160 for their
15 substance abuse, and shall not have their participation made known to
16 the disciplining authority, if they meet the requirements of this
17 section and the program in which they are participating.

18 (3) The license holder shall sign a waiver allowing the program to
19 release information to the disciplining authority if the licensee does
20 not comply with the requirements of this section or is unable to
21 practice with reasonable skill or safety. The substance abuse program
22 shall report to the disciplining authority any license holder who fails
23 to comply with the requirements of this section or the program or who,
24 in the opinion of the program, is unable to practice with reasonable
25 skill or safety. License holders shall report to the disciplining
26 authority if they fail to comply with this section or do not complete
27 the program's requirements. License holders may, upon the agreement of
28 the program and disciplining authority, reenter the program if they
29 have previously failed to comply with this section.

30 (4) The treatment and pretreatment records of license holders
31 referred to or voluntarily participating in approved programs shall be
32 confidential, shall be exempt from chapter 42.56 RCW, and shall not be
33 subject to discovery by subpoena or admissible as evidence except for
34 monitoring records reported to the disciplining authority for cause as
35 defined in subsection (3) of this section. Monitoring records relating
36 to license holders referred to the program by the disciplining
37 authority or relating to license holders reported to the disciplining
38 authority by the program for cause, shall be released to the

1 disciplining authority at the request of the disciplining authority.
2 Records held by the disciplining authority under this section shall be
3 exempt from chapter 42.56 RCW and shall not be subject to discovery by
4 subpoena except by the license holder.

5 (5) "Substance abuse," as used in this section, means the
6 impairment, as determined by the disciplining authority, of a license
7 holder's professional services by an addiction to, a dependency on, or
8 the use of alcohol, legend drugs, or controlled substances.

9 (6) This section does not affect an employer's right or ability to
10 make employment-related decisions regarding a license holder. This
11 section does not restrict the authority of the disciplining authority
12 to take disciplinary action for any other unprofessional conduct.

13 (7) A person who, in good faith, reports information or takes
14 action in connection with this section is immune from civil liability
15 for reporting information or taking the action.

16 (a) The immunity from civil liability provided by this section
17 shall be liberally construed to accomplish the purposes of this section
18 and the persons entitled to immunity shall include:

- 19 (i) An approved monitoring treatment program;
20 (ii) The professional association operating the program;
21 (iii) Members, employees, or agents of the program or association;
22 (iv) Persons reporting a license holder as being possibly impaired
23 or providing information about the license holder's impairment; and
24 (v) Professionals supervising or monitoring the course of the
25 impaired license holder's treatment or rehabilitation.

26 (b) The courts are strongly encouraged to impose sanctions on
27 clients and their attorneys whose allegations under this subsection are
28 not made in good faith and are without either reasonable objective,
29 substantive grounds, or both.

30 (c) The immunity provided in this section is in addition to any
31 other immunity provided by law.

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